

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

TONY EUGENE GRIMES,

Petitioner,

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civil action no. 3:05-cv-1226-F

vs.

KENNETH I. JONES, et al.,

Respondents.

MOTION TO STAY PROCEEDINGS

Pursuant to the applicable Federal Rules, Procedures, Statutes and Practices, the Petitioner Motion this Court to Stay Proceedings within His Habeas Petition due to:

1. On January 9, 2006, this Court via Magistrate Judge Recommendation moves to have His Habeas 'dismissed without prejudice', due to litigation of one claim within the Habeas is still within the State-Court.

2. Recently, the United States Supreme Court held in RHINES v. WEBER, 544 U.S. \_\_\_\_\_, 161 LEd 2d 440, 450, 125 S.Ct. \_\_\_\_\_, (2005), in pertinent parts:

"... District Courts do ordinarily have authority to issue stays, see Landis v. North America Co., 299 U.S. 248, 254..."

;

3. The "stay and abeyance is only appropriate when the District Court determines there was good cause for the petitioner's failure to exhaust his claims first in state court ". see, Rhines, id. at 161 LEd 2d at 450;

4. The failure of the Petitioner to wait for exhaustion is due to the facts that the Respondents has recently *failed* NOTIFYING this Petitioner in a timely fashion about adjudication or ruling upon His litigation within their courts lately.

5. The failure to receive the proper notice could have this Petitioner' run afoul to the tolling provision of the A.E.D.P.A. one year statute of limitation. Yet, with the STAY in place, if the Respondents failed to notify this Petitioner properly, He would not have later litigate the situation where the Respondents may failed to notify Him again with their disposition.

CERTIFICATE OF SERVICE

I CERTIFY I SERVED A COPY OF THE "STAY MOTION" ON THE COURT AND THE RESPONDENTS ON 11<sup>th</sup> OF JANUARY, 2006.

*Tony E. Grimes*

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